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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,500	05/02/2005	Ivan-William Fontaine	19152-00US1 FR03-03252	4471
26161 7590 01/30/2007 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER DOUGLAS, STEVEN O	
			ART UNIT 3751	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/533,500	FONTAINE ET AL.	
	Examiner	Art Unit	
	Steven O. Douglas	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03152006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “4C” (page 14, lines 7 and 9) and “13” (page 17, line 9). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 25-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 25, clear and proper antecedent basis for the “mid-plane” (line 13) should be defined since the mid-plane is not readily inherent with respect to an opening. Also in regard to claim 25, Applicant’s use of terminology such as “possibly” (line 16) renders the claim indefinite since the metes and bounds of the claim cannot be readily ascertained. In regard to claim 26, Applicant’s use of terminology such as “preferably” (line 2 and 3) renders the claim indefinite since the metes and bounds of the

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claim cannot be readily ascertained. In regard to claim 27, Applicant's use of terminology such as "preferably" (line 2 and 3) renders the claim indefinite since the metes and bounds of the claim cannot be readily ascertained. In regard to claim 30, it is indefinite as whether the "plug valve" and the "slide valve" further defines the opening; it appears to Examiner that they further define the adjusting means and not the opening (please clarify). In regard to claim 36, antecedent basis for the "means for tapping" should be clarified; "means for tapping" should be - - means for vibrating and/or tapping - -. In regard to claim 37, the limitation of the "stirrer is a rod" is inaccurate; "stirrer is a rod" should read - -stirrer includes a rod - -. In regard to claim 42, Applicant's use of terminology such as "possibly" (line 3) renders the claim indefinite since the metes and bounds of the claim cannot be readily ascertained. In regard to claim 43, Applicant's use of terminology such as "preferably" (line 2) renders the claim indefinite since the metes and bounds of the claim cannot be readily ascertained. In regard to claim 44, Applicant's use of terminology such as "possibly" (line 5) renders the claim indefinite since the metes and bounds of the claim cannot be readily ascertained.

Claim Objections

Claims 41 and 44 are objected to because of the following grammatical informalities: "(" (claim 41, line 4) should be deleted and - - and - - should be inserted after "means," (claim 44, line 8). Appropriate correction is required.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Pointon reference pertains to an auger feed arrangement arranged for axial movement (i.e. it does not appear to appear to vibrate or tap the associated container), and the Flournoy, Izzi and Luchinger references pertain to reference pertain to container fillers with associated vibration structures.


Claims 25-44 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Steven O. Douglas
Primary Examiner
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1/18/07

SD
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